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#2NRLM500_s = the total volume of #2D 500 ppm sulfur NRLM diesel fuel that the facility can demonstrate they redesignated as #2D 500 ppm sulfur motor vehicle diesel fuel during the compliance period.

NP_B = the total volume of fuel received during the compliance period that is designated as NP15 ppm sulfur motor vehicle diesel fuel, and/or NP500 ppm sulfur motor vehicle diesel fuel which the facility can demonstrate they blended into #2D 500 ppm sulfur motor vehicle diesel fuel.

(f) *Inventory adjustments.* Adjustments to inventory under this section must be based on normal business practices for the industry, appropriate physical plant operations and use of good engineering judgments.

(g) *Unique circumstances.* EPA may, at its discretion, grant a fuel distributor's application to modify its inventory of motor vehicle diesel fuel, NRLM diesel fuel, or heating oil for a given compliance period. EPA may grant an application to address unique circumstances, where appropriate, such as the start up of a new pipeline or pipeline segment.

(h) *Additional requirements for aggregated facilities consisting of a refinery and a truck loading terminal.* In addition to the volume balance requirements required by paragraphs (a) through (g) of this section, aggregated facilities consisting of a refinery and a truck loading terminal are responsible for balance calculations on the volume difference between the total volume of diesel fuel sold over the truck loading terminal rack and the production volume from the batch reports. Mathematically, the difference will be the volume of fuel received from external sources and passed through to another facility.

[69 FR 39194, June 29, 2004, as amended at 70 FR 40896, July 15, 2005; 70 FR 70511, Nov. 22, 2005; 71 FR 25720, May 1, 2006; 75 FR 22974, Apr. 30, 2010]

§ 80.600 What records must be kept for purposes of the designate and track provisions?

(a) In addition to the requirements of § 80.592 and § 80.602, the following recordkeeping requirements shall apply to refiners and importers:

(1) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this sec-

tion for each batch of distillate fuel that it transfers custody of and designates during the time period from June 1, 2006 through May 31, 2010, with the following categories:

- (i) #1D 15 ppm sulfur motor vehicle diesel fuel;
- (ii) #2D 15 ppm sulfur motor vehicle diesel fuel;
- (iii) 15 ppm sulfur NRLM diesel fuel;
- (iv) #1D 500 ppm sulfur motor vehicle diesel fuel;
- (v) #2D 500 ppm sulfur motor vehicle diesel fuel;
- (vi) 500 ppm sulfur NRLM diesel fuel;
- (vii) NP 15 ppm sulfur motor vehicle diesel fuel;
- (viii) NP 500 ppm sulfur motor vehicle diesel fuel; or,

(ix) Exempt distillate fuels such as fuels that are covered by a national security exemption under § 80.606, fuels that are used for purposes of research and development pursuant to § 80.607, and fuels used in the U.S. Territories pursuant to § 80.608 (including additional identifying information).

(2) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of distillate fuel that it transfers custody of and designates during the time period from June 1, 2007 through May 31, 2010 with the following categories:

- (i) High sulfur NRLM diesel fuel; or
- (ii) Heating oil.

(3) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of distillate fuel that it transfers custody of and designates during the time period from June 1, 2010 through May 31, 2012 with the following categories:

- (i) 500 ppm sulfur NR diesel fuel;
- (ii) 500 ppm sulfur LM diesel fuel;
- (iii) Heating oil; or
- (iv) Exempt distillate fuels such as fuels that are covered by a national security exemption under § 80.606, fuels that are used for purposes of research and development pursuant to § 80.607, and fuels used in the U.S. Territories pursuant to § 80.608 (including additional identifying information).

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(4) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (a)(10) of this section for each batch of distillate fuel that it transfers custody of and designates during the time period from June 1, 2012 through May 31, 2014 with the following categories:

(i) 500 ppm sulfur NRLM diesel fuel;

(ii) Heating oil; or

(iii) Exempt distillate fuels such as fuels that are covered by a national security exemption under § 80.606, fuels that are used for purposes of research and development pursuant to § 80.607, and fuels used in the U.S. Territories pursuant to § 80.608 (including additional identifying information).

(5) Any refiner or importer shall maintain the records specified in paragraphs (a)(6) through (10) of this section for each batch of distillate or residual fuel that it transfers custody of and designates from June 1, 2014, and later as any of the following categories:

(i) Heating oil.

(ii) ECA marine fuel.

(6) The records for each batch with designations identified in paragraphs (a)(1) through (a)(5) of this section must clearly and accurately identify the batch number (including an indication as to whether the batch was received into the facility, produced by the facility, imported into the facility, or delivered from the facility), date and time of day (if multiple batches are delivered per day) that custody was transferred, the designation, the volume in gallons of the batch, and the name and the EPA entity and facility registration number of the facility to whom such batch was transferred.

(7) Any refiner or importer shall, for each of its facilities, maintain records that clearly and accurately identify the total volume in gallons of designated fuel identified in paragraphs (a)(1) through (a)(5) of this section transferred over each compliance period. The records shall be maintained separately for each fuel designated in paragraphs (a)(1) through (a)(5) of this section, and for each EPA entity and facility registration number to whom custody of the fuel was transferred.

(8) Notwithstanding the provisions of paragraphs (a)(6) and (a)(7) of this sec-

tion, records of batches delivered of 500 ppm sulfur motor vehicle diesel fuel on which taxes have been paid per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) and of 500 ppm sulfur NRLM diesel fuel into which dye has been added per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082), and of 500 ppm sulfur LM diesel fuel which has been properly marked pursuant to § 80.510(e) are not required to be maintained separately for each entity and facility to which the fuel was delivered.

(9) Notwithstanding the provisions of paragraphs (a)(6) and (a)(7) of this section, records of heating oil batches delivered that have been properly marked pursuant to § 80.510(d) through (f) and records of LM diesel fuel batches delivered that have been properly marked pursuant to § 80.510(e) are not required to be maintained separately for each entity and facility to which the fuel was delivered.

(10) Any refiner or importer shall maintain copies of all product transfer documents required under § 80.590. If all information required in paragraph (a)(6) of this section is on the product transfer document for a batch, then the provisions of this paragraph (a)(10) shall satisfy the requirements of paragraph (a)(6) of this section for that batch.

(11) Any refiner or importer shall maintain records related to annual compliance calculations performed under § 80.599 and to information required to be reported to the Administrator under § 80.601.

(12) Records must be maintained that demonstrate compliance with a refiner's compliance plan required under § 80.554, for distillate fuel designated as high sulfur NRLM diesel fuel and delivered from June 1, 2007 through May 31, 2010, for distillate fuel designated as 500 ppm sulfur NR diesel fuel and delivered from June 1, 2010, through May 31, 2012, and for distillate fuel designated as 500 ppm sulfur NRLM diesel fuel and delivered from June 1, 2012, through May 31, 2014, in the areas specified in § 80.510(g)(2).

(13) Refiners and importers who also receive fuel from another facility must also comply with the requirements of

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paragraph (b) of this section separately for those volumes.

(b) In addition to the requirements of § 80.592 and § 80.602, the following recordkeeping requirements shall apply to distributors:

(1) Any distributor shall maintain the records specified in paragraphs (b)(2) through (b)(10) of this section for each batch of distillate fuel with the following designations for which custody is received or delivered as well as any batches produced. Records shall be kept separately for each of its facilities.

(i) For each facility that receives or distributes #2D 15 ppm sulfur motor vehicle diesel fuel or #2D 500 ppm sulfur motor vehicle diesel fuel, records for each batch of diesel fuel with the following designations for which custody is received or delivered during the time period from June 1, 2006 through May 31, 2007:

(A) #1D 15 ppm sulfur motor vehicle diesel fuel;

(B) #2D 15 ppm sulfur motor vehicle diesel fuel;

(C) #1D 500 ppm sulfur motor vehicle diesel fuel;

(D) #2D 500 ppm sulfur motor vehicle diesel fuel;

(E) California diesel fuel as defined in § 80.616 which is transferred out of the State of California pursuant to the provisions of § 80.617(b);

(F) NP 15 ppm sulfur motor vehicle diesel fuel;

(G) NP 500 ppm sulfur motor vehicle diesel fuel; or

(H) Exempt distillate fuels such as fuels that are covered by a national security exemption under § 80.606, fuels that are used for purposes of research and development pursuant to § 80.607, and fuels used in the U.S. Territories pursuant to § 80.608 (including additional identifying information).

(ii) For each facility, records for each batch of diesel fuel with the following designations for which custody is received or delivered as well as any batches produced during the time period from June 1, 2007 through May 31, 2010:

(A) #1D 15 ppm sulfur motor vehicle diesel fuel;

(B) #2D 15 ppm sulfur motor vehicle diesel fuel;

(C) #1D 500 ppm sulfur motor vehicle diesel fuel;

(D) #2D 500 ppm sulfur motor vehicle diesel fuel;

(E) 500 ppm sulfur NRLM diesel fuel;

(F) 15 ppm sulfur NRLM diesel fuel;

(G) High sulfur NRLM diesel fuel;

(H) Heating oil;

(I) California diesel fuel as defined in § 80.616 which is transferred out of the State of California pursuant to the provisions of § 80.617(b);

(J) NP 15 ppm sulfur motor vehicle diesel fuel;

(K) NP 500 ppm sulfur motor vehicle diesel fuel; or

(L) Exempt distillate fuels such as fuels that are covered by a national security exemption under § 80.606, fuels that are used for purposes of research and development pursuant to § 80.607, and fuels used in the U.S. Territories pursuant to § 80.608 (including additional identifying information).

(iii) For each facility that receives unmarked fuel designated as NR diesel fuel, LM diesel fuel or heating oil, records for each batch of diesel fuel with the following designations for which custody is received or delivered as well as any batches produced during the time period from June 1, 2010 through May 31, 2012:

(A) 500 ppm sulfur NR diesel fuel;

(B) 500 ppm sulfur LM diesel fuel;

(C) Heating oil; or

(D) Exempt distillate fuels such as fuels that are covered by a national security exemption under § 80.606, fuels that are used for purposes of research and development pursuant to § 80.607, and fuels used in the U.S. Territories pursuant to § 80.608 (including additional identifying information).

(iv) For each facility that receives unmarked fuel designated as heating oil, records for each batch of diesel fuel with the following designations for which custody is received or delivered as well as any batches produced during the time period from June 1, 2012 through May 31, 2014:

(A) 500 ppm sulfur NRLM diesel fuel;

(B) Heating oil; or

(C) Exempt distillate fuels such as fuels that are covered by a national security exemption under § 80.606, fuels that are used for purposes of research and development pursuant to § 80.607,

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and fuels used in the U.S. Territories pursuant to §80.608 (including additional identifying information).

(v) For each facility that receives fuel designated as heating oil, records for each batch of distillate or residual fuel with any of the following designations for which custody is received or delivered as well as any batches produced from June 1, 2014, and beyond:

- (A) 1,000 ppm sulfur ECA marine fuel.
- (B) Heating oil.

(C) Exempt distillate fuels such as fuels that are covered by a national security exemption under §80.606, fuels that are used for purposes of research and development pursuant to §80.607, and fuels used in the U.S. Territories pursuant to §80.608 (including additional identifying information).

(vi) From June 1, 2007 through May 31, 2010, for those facilities in the areas specified in §80.510(g)(2) that receive unmarked fuel designated as high sulfur NRLM diesel fuel:

- (A) High sulfur NRLM diesel fuel;
- (B) Heating oil; or

(C) Exempt distillate fuels such as fuels that are covered by a national security exemption under §80.606, fuels that are used for purposes of research and development pursuant to §80.607, and fuels used in the U.S. Territories pursuant to §80.608 (including additional identifying information).

(vii) From June 1, 2010 through May 31, 2012, for those facilities in the areas specified in §80.510(g)(2) that receive unmarked fuel designated as 500 ppm sulfur NR diesel fuel, 500 ppm sulfur LM diesel fuel, or heating oil:

- (A) 500 ppm sulfur NR diesel fuel;
- (B) 500 ppm sulfur LM diesel fuel;
- (C) Heating oil; or

(D) Exempt distillate fuels such as fuels that are covered by a national security exemption under §80.606, fuels that are used for purposes of research and development pursuant to §80.607, and fuels used in the U.S. Territories pursuant to §80.608 (including additional identifying information).

(viii) From June 1, 2012 through May 31, 2014, for those facilities in the areas specified in §80.510(g)(2) that receive unmarked fuel designated as 500 ppm sulfur NRLM diesel fuel or heating oil.

- (A) 500 ppm sulfur NRLM diesel fuel;
- (B) Heating oil; or

(C) Exempt distillate fuels such as fuels that are covered by a national security exemption under §80.606, fuels that are used for purposes of research and development pursuant to §80.607, and fuels used in the U.S. Territories pursuant to §80.608 (including additional identifying information).

(2) Records that for each batch clearly and accurately identify the batch number (including an indication as to whether the batch was received into the facility, produced by the facility, imported into the facility, or delivered from the facility), date and time of day (if multiple batches are delivered per day) that custody was transferred, the designation, the volume in gallons of each batch of each fuel, and the name and the EPA entity and facility registration number of the facility to whom or from whom such batch was transferred.

(3) Records that clearly and accurately identify the total volume in gallons of each designated fuel identified under paragraph (b)(1) of this section transferred over each of the compliance periods, and over the periods from June 1, 2006 to the end of each compliance period. The records shall be maintained separately for each fuel designated under paragraph (b)(1) of this section, and for each EPA entity and facility registration number from whom the fuel was received or to whom it was delivered. For batches of fuel received from facilities without an EPA facility registration number:

(i) Any batches of fuel received marked pursuant to §80.510(d) or (f) shall be deemed to be designated as heating oil.

(ii) Any batches of fuel received marked pursuant to §80.510(e) shall be deemed to be designated as heating oil or LM diesel fuel.

(iii) Any batches of fuel received on which taxes have been paid pursuant to Section 4082 of the Internal Revenue Code (26 CFR 48.4082) shall be deemed to be designated as motor vehicle diesel fuel.

(iv) Any 500 ppm sulfur diesel fuel dyed pursuant to §80.520(b) and not marked pursuant to §80.510(d) or (f) shall be deemed to be designated as NRLM diesel fuel.

(v) Any diesel fuel with less than or equal to 500 ppm sulfur which is dyed pursuant to § 80.520(b) and not marked pursuant to § 80.510(e) shall be deemed to be NR diesel fuel.

(vi) Beginning June 1, 2014, any batches of fuel with greater than 15 ppm sulfur, but less than or equal to 1,000 ppm sulfur, and not designated as heating oil shall be deemed to be 1,000 ppm ECA marine fuel.

(4) Notwithstanding the provisions of paragraphs (b)(2) and (b)(3) of this section, for batches of 500 ppm sulfur motor vehicle diesel fuel delivered on which taxes have been paid per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) and 500 ppm sulfur NRLM diesel fuel into which red dye has been added per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082), records are not required to be maintained separately for each entity or facility to whom fuel was delivered.

(5) Notwithstanding the provisions of paragraphs (b)(2) and (b)(3) of this section, for batches of heating oil delivered that are marked pursuant to § 80.510(d) through (f), records do not need to identify the EPA entity or facility registration number to which fuel was delivered.

(6) Notwithstanding the provisions of paragraphs (b)(2) and (b)(3) of this section, for batches of LM diesel fuel delivered that are marked pursuant to § 80.510(e), records do not need to identify the EPA entity or facility registration number to which fuel was delivered.

(7) Records that clearly and accurately reflect the beginning and ending inventory volume for each of the fuels for which records must be kept under paragraph (b)(1) of this section. Such records shall be maintained separately by each entity and facility consistent with the compliance periods defined in §§ 80.598 and 80.599.

(8) (i) If adjustments are made to inventory, the records must include detailed information related to the amount, type of, and reason for such adjustment.

(ii) If adjustments are made because of measurement error or variation, the records must include the adjustment made, the meter or gauge or other reading(s), and the name of the person

who took such reading(s) and or applied the adjustment.

(9) For distributors that are required to keep records under paragraphs (b)(1) through (b)(8) of this section for truck loading terminals, records related to quarterly or annual compliance calculations, as applicable, performed under § 80.599 and to information required to be reported to the Administrator under § 80.601.

(10) For distributors that are required to keep records under paragraphs (b)(1) through (b)(8) of this section for facilities other than truck loading terminals, records related to annual compliance calculations performed under § 80.599 and to information required to be reported to the Administrator under § 80.601.

(c) Notwithstanding the provisions of paragraph (b) of this section, records of heating oil received are not required to be maintained for facilities that do not receive any heating oil which is unmarked pursuant to § 80.510(d) through (f), or LM diesel fuel which is unmarked pursuant to § 80.510(e).

(d) Notwithstanding the provisions of paragraph (b) of this section, records of 500 ppm sulfur MVNRLM diesel fuel received are not required to be maintained for facilities that do not receive any motor vehicle diesel fuel for which taxes have not already been paid pursuant to Section 4082 of the Internal Revenue Code (26 U.S.C. 4082) or NRLM diesel fuel which is undyed pursuant to § 80.520(b).

(e) The provisions of paragraphs (b)(1)(iii) and (iv) of this section do not apply to facilities located in the areas specified in § 80.510(g)(1) and (g)(2) unless they deliver marked heating oil or LM diesel fuel to areas outside the areas specified in § 80.510(g)(1) and (g)(2).

(f) Ultimate consumers that receive any batch of high sulfur NRLM diesel fuel beginning June 1, 2007 in areas listed in § 80.510(g)(2) must maintain records of each batch of fuel received for use in NRLM equipment pursuant to the compliance plan provisions of § 80.554, unless otherwise allowed by EPA.

(g) Ultimate consumers that receive any batch of 500 ppm sulfur NR diesel fuel beginning June 1, 2010 or NRLM

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diesel fuel beginning June 1, 2012 in the areas listed in § 80.510(g)(2) must maintain records of each batch of fuel received for use in NR or NRLM equipment, as appropriate, pursuant to the compliance plan provisions of § 80.554, unless otherwise allowed by EPA.

(h) For purposes of this section, each portion of a shipment of designated distillate fuel under this section that is differently designated from any other portion, even if shipped as fungible product having the same sulfur content, shall be a separate batch.

(i) Additional records that must be kept by mobile facilities. Any registered mobile facility must keep records of all contracts from any contracted components (*e.g.*, tank truck, barge, marine tanker, rail car, *etc.*) in each of its registered mobile facilities.

(j) The records required in this section must be made available to the Administrator or the Administrator's designated representative upon request.

(k) Notwithstanding the provisions of this section, product transfer documents must be maintained under the provisions of §§ 80.590, 80.592, and 80.602.

(l) The records required in this section must be kept for five years after they are required to be collected.

(m) Identifications of fuel designations can be limited to a sub-designation that accurately identifies the fuel and do not need to also include the broader designation. For example, NR diesel fuel does not also need to be designated as NRLM or MVNRLM diesel fuel.

(n) Notwithstanding the provisions of paragraphs (b)(2) and (b)(3) of this section, for batches of 15 ppm sulfur motor vehicle diesel fuel or California diesel fuel under § 80.617(b) on which taxes have been paid per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082), and 15 ppm sulfur NRLM diesel fuel or California diesel fuel under § 80.617(b) into which red dye has been added per Section 4082 of the Internal Revenue Code (26 U.S.C. 4082), records are not required to be maintained separately for each entity or facility to whom fuel was delivered.

(o) In addition to the requirements of §§ 80.592 and 80.602, the following recordkeeping requirements shall apply to

aggregated facilities consisting of a refinery and truck loading terminal:

(1) Any aggregated facility consisting of a refinery and truck loading terminal shall maintain records of all the following information for each batch of distillate fuel (and/or residual fuel with a sulfur level of 1,000 ppm or less that is intended for use in an ECA) produced by the refinery and sent over the aggregated facility's truck loading terminal rack:

(i) The batch volume.

(ii) The batch number, assigned under the batch numbering procedures under §§ 80.65(d)(3) and 80.502(d)(1).

(iii) The date of production.

(iv) A record designating the batch as distillate or residual fuel meeting the 500 ppm, 15 ppm, or 1,000 ppm ECA marine sulfur standard.

(v) A record indicating the volumes that were either taxed, dyed, or dyed and marked.

(2) Volume reports for all distillate fuel (and/or residual fuel with a sulfur level of 1,000 ppm or less that is intended for use in an ECA) from external sources (*i.e.*, from another refiner or importer), as described in § 80.601(f)(2), sent over the aggregated facility's truck rack.

[69 FR 39196, June 29, 2004, as amended at 70 FR 40898, July 15, 2005; 70 FR 70511, Nov. 22, 2005; 71 FR 25721, May 1, 2006; 75 FR 22974, Apr. 30, 2010]

§ 80.601 What are the reporting requirements for purposes of the designate and track provisions?

(a) *Quarterly compliance period reports.* Beginning February 28, 2007 and continuing through August 31, 2010, each entity required to register under § 80.597 and to maintain records under § 80.600 must report the following information separately for each of its facilities to the Administrator as specified in paragraph (d)(1) of this section except as provided in paragraph (e) of this section.

(1) Separately for each fuel designation category specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section and separately for each transferee facility, the total volume in gallons of distillate fuel designated under § 80.598 for which custody was delivered by the reporting facility to any other entity or facility,